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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 330

Complete if Known

Application Number	09/608,635
Filing Date	06/30/2000
First Named Inventor	Joan A. Schuller
Examiner Name	Smith, Jeffrey A.
Art Unit	3625
Attorney Docket No.	A01036

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
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18-1850

Rohm and Haas Company

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Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below	Fee Paid
Total Claims		-20** =	X	
Independent Claims		-3** =	X	
Multiple Dependent				

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	330
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 330

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Andrew E. C. Merriam	Registration No. (Attorney/Agent)	47,268	Telephone	215-592-6758
Signature		Date	September 07, 2004		

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty Docket Number: A01036

In re application of :

Joan A. Schuller, et al

:

Confirmation No.: 9395

Serial No: 09/608,635

:

Group Art Unit: 3625

Filed: 06/30/2000

:

Examiner: Smith, Jeffrey A.

For: CHEMICAL PRODUCT COMMERCE NETWORK

Mail Stop Appeal Brief-Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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I hereby certify that the following correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated next to my signature below:

Appellant's Brief (Original + 2 copies)
Fee Transmittal (in duplicate)
Return Receipt Postcard

Sept. 7, 2004
Date

Shelly D. Denny
Signature



AF \$ ✓
Tgw

GROUP ART UNIT: 3625

APPEAL NO. _____

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES**

APPEAL BRIEF

In re the Application of SCHULLER

Filed: June 30, 2000

Serial No. 09/608,635

For: CHEMICAL PRODUCT COMMERCE NETWORK

Chipo M. Jolibois
Attorney for Appellants

Jeffrey A. Smith
Examiner

Enclosed:
Original + 2 Copies
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09/09/2004 STEUMEL1 00000065 181850 09608635

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : JOAN A. SCHULLER

Application No. : 09/608,635

Group No. : 3625

Filed : 06/30/2000

Examiner : Sabrina A. Chang

For: CHEMICAL PRODUCT COMMERCE NETWORK

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

This is an appeal from the rejection dated April 7, 2004, finally rejecting Claims 1-7, 9-16 and 20-22. The rejected claims are set out in the Appendix. Appellant filed a Notice of Appeal pursuant to 37 C.F.R. § 1.191 on January 23, 2004.

(1) Real Party In Interest

The owner of the present application and the invention contained therein is ROHM AND HAAS COMPANY.

(2) Related Appeals and Interferences

No appeals or interferences are known to Appellant, the Appellant's legal representative, or the assignee, which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

(3) Status Of Claims

The status of the claims is as follows:

Claims pending: 6-7, 9-12, and 20-22.

Claims withdrawn: 1-5 and 13-16.

Claims cancelled: 8, 17-19 and 23-25.

Claims rejected: 6-7, 9-12, and 20-22.

Claims on appeal: 6-7, 9-12, and 20-22.

It is noted that the final Office Action incorrectly states that Claims 1-5 and 13-16 are pending in the present application, and are rejected therein. The Amendment filed by Applicant on October 1, 2003 was entered by the Examiner and the claim amendments therein (CLAIM LISTING, pages 2-4) included withdrawal of Claims 1-5 and 13-16, leaving only 6-7, 9-12, and 20-22 pending in the present application. In the foregoing circumstances, only the rejections of Claims 6-7, 9-12, and 20-22 are under appeal and addressed hereinafter.

(4) Status Of Amendments After-Final Rejection

No Amendments After Final Rejection have been filed. In the foregoing circumstances, Claims 6-7, 9-12 and 20-22 are presented herein, in clean form, and including amendments made by the most recent Amendment filed October 1, 2003.

(5) Summary Of Invention

One aspect of the present invention is a networked computer system configured for commerce in chemical products, the system comprising:

a server configured to exchange data with a plurality of client computers;

a database operatively coupled to the server and storing chemical product data for a plurality of chemical products;

a memory operatively coupled to the server and comprising instructions to configure the server to:

receive a request comprising a product identifier from a first one of the plurality of client computers,

query the database in response to the received request to retrieve chemical product data comprising a starting point formulation and chemical characteristics inherent to the starting point formulation,

send the product information to the first client computer,

receive a purchase order comprising a request to purchase a product identified by the product identifier and target characteristics input by a user,

modify the starting point formulation based on the target characteristics input by the user, and

process the purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with said modified starting point formulation.

Another aspect of the present invention is a method for processing a chemical product transaction, the method comprising:

receiving at a server computer from a first one of a plurality of client computers a request identifying a chemical product,

querying a database in response to the received request to retrieve chemical product data comprising a starting point formulation and chemical characteristics inherent to the starting point formulation, sending the chemical product data to the first client computer, modifying the starting point formulation based on the target characteristics input by the user, receiving a purchase order comprising a request to purchase the chemical product, processing the purchase order, said purchase order comprising an order for purchase by the user of a chemical product formulated in accordance with said modified starting point formulation.

(6) Issues Presented for Re view on Appeal

The following three (3) issues are presented for review on appeal:

A. Rejection Under 35 U.S.C. § 103(a) over Eastman in view of BlendPro

Whether claims 6, 7, 12 ,20 and 21 are unpatentable, under 35 USC § 103(a) as being obvious over the article “Eastman Chemical Company...” (Press Release. March 17, 2000) in view of the software package “BlendPro” taught in the article “Solvents – Continuing to Evolve for the Future” (Beers et. Al. 1998. Pigment and Resin).

B. Rejection Under 35 U.S.C. § 103(a) over Eastman in view of BlendPro and Further in View of WorldWideTesting.com

Whether claims 9 and 22 are unpatentable, under 35 USC § 103(a) as being obvious over the article “Eastman Chemical Company...” (Press Release. March 17, 2000) in view of the software package “BlendPro” taught in the article “Solvents – Continuing to Evolve for the Future” (Beers et. Al. 1998. Pigment and Resin), as applied to claims 6 and 20, in further view

of the service provided by WorldWideTesting.com, as discussed in the article “WorldWideTesting.com...the Missing Link” (Press Release. June 22, 1999).

C. Rejection Under 35 U.S.C. § 103(a) over Eastman in view of BlendPro, Further in View of WorldWideTesting.com and in Further View of Official Notice

Whether claims 10 and 11 are unpatentable, under 35 USC § 103(a) as being obvious over the article “Eastman Chemical Company...” (Press Release. March 17, 2000) in view of the software package “BlendPro” taught in the article “Solvents – Continuing to Evolve for the Future” (Beers et. Al. 1998. Pigment and Resin), in further view of the service provided by WorldWideTesting.com, as discussed in the article “WorldWideTesting.com...the Missing Link” (Press Release. June 22, 1999), as applied in claim 9, in further view of official notice regarding e-commerce.

(7) Grouping Of Claims

Claims 6-7 and 9-12 stand or fall together.

Claim 20-22 stand or fall together.

(8) Argument

A. 35 U.S.C. § 103(a) over Eastman in view of BlendPro / Claims 6, 7, 12, 20 and 21

Claims 6, 7, 12, 20 and 21 have been finally rejected as being obvious under 35 USC § 103(a), over the article “Eastman Chemical Company...” (Press Release. March 17, 2000) (“Eastman”) in view of the software package “BlendPro” taught in the article “Solvents – Continuing to Evolve for the Future” (Beers et. Al. 1998. Pigment and Resin) (“BlendPro”).

To sustain a rejection under 35 U.S.C. § 103(a), it must be shown that there exists some teaching or knowledge in the art to combine the cited prior art references so as to obtain the invention claimed by the applicant. Merely citing that “it would have been obvious to one skilled

in the art” is not enough. As stated in MPEP § 2141.01, the basic considerations which apply to obviousness rejections include the following:

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
 - (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
 - (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and
 - (D) Reasonable expectation of success is the standard with which obviousness is determined.
- Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

(MPEP § 2141.01 citing to *Hodosh v. Block Drug Co.* (emphasis added))

Element (b) requires that “the references . . . suggest the desirability and thus the obviousness of making the combination.” Applicant submits that the Examiner has not met her burden of providing a prima facie case of obviousness by pointing out any teaching or suggestion within Eastman or BlendPro to combine their teachings, save for generic suggestions of convenience and lower cost. This falls short of suggesting any advantage of combining the teachings or any specific motivation to make the combination.

Applicant submits that neither reference suggests the desirability of combining it with the other reference. The Examiner concedes (Office Action mailed 4/7/04, page 5, paragraph 3) that “Eastman does not teach a system or method where users are given a tool that aids them in finding chemical customized products using their own chosen starting point formulation and their desired specifications”. Applicant agrees. Eastman discloses an independent Internet marketplace for the paint and coatings industry, serving raw material suppliers, distributors and manufacturers, and coating formulators and users. Eastman further discloses that the internet marketplace is directed toward “creating multivendor catalogs and a rich product offering... to reduce total costs of procurement and the costs of sales and marketing for thousands of companies worldwide”. Further, Eastman discloses that the internet marketplace will “bring a fully functioning community together with an established supply of products and buyers beginning on day one”. Applicant respectfully submits that Eastman is thus directed toward an online catalog with a variety of fixed offering. Eastman does not identify any problems

associated with providing coating materials in this manner, and does not provide any motivation to solve any such problems. Thus, Eastman does not contain any teaching or suggestion to modify the teachings of Eastman to include BlendPro's reformulation tool.

BlendPro provides a tool "to enable formulators to tailor cosolvent blends" for control of evaporation rates and viscosity of coatings formulations. BlendPro provides information based on the physical properties of a catalog of available solvents, which enables a formulator to select blends of desirable available solvents. The Examiner contends in the Office Action mailed on April 7, 2004, that BlendPro's teachings regarding use of the program for reduction of development time and keeping up with changes in technology requirements provide motivation to combine BlendPro with Eastman. Applicant respectfully submits that one of ordinary skill in the art reading BlendPro would not believe that the program is efficient enough to use in an internet marketplace setting. As noted in BlendPro (page 6, line 13-18), where an alternative cleaner composition was being developed, the program was used, in combination with solubility maps, to design a variety of new formulations. However, while the program was quicker than traditional trial and error methods, it was still necessary to test the designed solvents using a bench test. Thus, one of ordinary skill in the art reading BlendPro would believe that while BlendPro may be suitable for shortening the trial and error involved in research efforts to develop new cosolvents, it is not able to provide a product meeting desired characteristics, within the quick timeframe required in an internet marketplace setting, such as that used in Eastman. Further, BlendPro does not provide any teaching, suggestion, or motivation to provide a system or method for providing for the sale of customized products to a user interacting with the software. Applicant therefore submits that BlendPro provides no teaching, suggestion or motivation to combine his program with Eastman's internet marketplace.

Further, even assuming arguendo that one of ordinary skill in the art were to combine Eastman with BlendPro, Applicant's invention would not be taught or suggested. Applicant's claimed network computer system includes, among other things, the receipt of a purchase order containing a request to purchase a product identified by a product identifier and target characteristics input by the user, which received request is used to obtain a starting point formulation from a database, and based on the target characteristics, the system modifies the

starting point formulation associated with a chemical product. The system can then process a purchase order whereby the user purchases a chemical product formulated in accordance with the modified starting point formulation. Eastman in view of BlendPro falls short of teaching or suggesting a starting point formulation based on target characteristics input by a user, and then providing for the purchase of a chemical product so formulated, as claimed by Applicant.

In light of the above, Applicant submits that the rejection of claim 6, 7, 12, 20, and 21 under 35 U.S.C. § 103(a) is improper, and asserts that the rejection should be withdrawn.

B. Rejection Under 35 U.S.C. § 103(a) over Eastman in view of BlendPro and Further in View of WorldWideTesting.com / Claims 9 and 22

Claims 9 and 22 have been finally rejected under 35 USC § 103(a) as being obvious over the article “Eastman Chemical Company...” (Press Release. March 17, 2000) in view of the software package “BlendPro” taught in the article “Solvents – Continuing to Evolve for the Future” (Beers et. Al. 1998. Pigment and Resin), as applied to claims 6 and 20, in further view of the service provided by WorldWideTesting.com, as discussed in the article “WorldWideTesting.com...the Missing Link” (Press Release. June 22, 1999) (“WorldWideTesting”).

Applicant submits that the combination does not meet element (b) of the above-mentioned tenets of patent law, which requires that the “the references . . . suggest the desirability and thus the obviousness of making the combination.” WorldWideTesting discloses an internet-based third party laboratory testing site which delivers online analytical testing results of chemicals and other industrial commodities offered in trading exchanges and online catalog sales. Nothing in WorldWideTesting teaches, suggests, or motivates one of ordinary skill in the art to combine WorldWideTesting’s online testing system with either Eastman’s internet marketplace, of BlendPro’s solvent reformulating program. Further, nothing in either Eastman or BlendPro teaches, suggests, or motivates, combination by one of ordinary skill in the art with WorldWideTesting.

Even assuming, arguendo, that the references were to be combined, for at least the reasons presented herein-above, Eastman in view of BlendPro falls short of teaching or suggesting a system or method including modifying a starting point formulation based on target characteristics input by a user and then providing for the purchase of a chemical product so formulated, and WorldWide Testing does not perfect that teaching. Therefore, Applicant submits that the rejection of claims 9 and 22 under 35 U.S.C. § 103(a) is improper, and asserts that the rejection should be withdrawn.

C. Rejection Under 35 U.S.C. § 103(a) over Eastman in view of BlendPro, Further in View of WorldWideTesting.com and in Further View of Official Notice / Claims 10 and 11

Claims 10 and 11 have been finally rejected under 35 USC § 103(a) as being obvious over the article “Eastman Chemical Company...” (Press Release. March 17, 2000) in view of the software package “BlendPro” taught in the article “Solvents – Continuing to Evolve for the Future” (Beers et. Al. 1998. Pigment and Resin), in further view of the service provided by WorldWideTesting.com, as discussed in the article “WorldWideTesting.com...the Missing Link” (Press Release. June 22, 1999), as applied in claim 9, in further view of official notice regarding e-commerce.

Applicant submits that even assuming, arguendo, that the references were to be combined, for at least the reasons presented herein-above, Eastman in view of BlendPro falls short of teaching or suggesting a system or method including modifying a starting point formulation based on target characteristics input by a user and then providing for the purchase of a chemical product so formulated, and neither WorldWide Testing nor the official notice regarding e-commerce, separately, or together, perfect the teaching.

Therefore, Applicant submits that the rejection of claims 10 and 11 under 35 U.S.C. § 103(a) is improper, and asserts that the rejection should be withdrawn.

CONCLUSION

Based on the foregoing, Appellant respectfully submits that pending Claims 6-7, 9-12 and 20-22 are not made obvious by any of the references cited by the Examiner. It is believed that the pending Claims are allowable over each of the cited references, for the reasons discussed herein-above. Appellant respectfully requests the Board to pass the pending claims to allowance.

Enclosed herewith, Appellant have filed a Certificate of Mailing to establish the timely filing of this Appeal Brief.

The Commissioner is hereby authorized to charge any additional fee(s) which may be required, or to credit any overpayment(s), to **Deposit Account 18-1850**.

Respectfully submitted,



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September 7, 2004

APPENDIX

6. A networked computer system configured for commerce in chemical products, the system comprising:

a server configured to exchange data with a plurality of client computers;

a database operatively coupled to the server and storing chemical product data for a plurality of chemical products;

a memory operatively coupled to the server and comprising instructions to configure the server to:

receive a request comprising a product identifier from a first one of the plurality of client computers,

query the database in response to the received request to retrieve chemical product data comprising a starting point formulation and chemical characteristics inherent to the starting point formulation,

send the product information to the first client computer,

receive a purchase order comprising a request to purchase a product identified by the product identifier and target characteristics input by a user,

modify the starting point formulation based on the target characteristics input by the user, and

process the purchase order, wherein the purchase order comprises an order for
purchase of a chemical product formulated in accordance with said modified
starting point formulation.

7. The system of claim 6 wherein the sent chemical product data further comprises data selected from the group consisting of material safety data, chemical property data, processing data, and product manufacturing data.
9. The system of claim 6 wherein the sent chemical product data further comprises testing result data stored in the database in response to a sample testing request.
10. The system of claim 9 wherein the product information comprises testing result data.
11. The system of claim 10 wherein the database further comprises user access permission information and the memory further comprises instructions to query the database to validate access by a user of the first computer, and the instructions to send the product information comprise instruction to send only if access by the first user is validated.
12. The system of claim 6 wherein the memory comprises a disk storage media configured as an integral component of the server.

20. A method for processing a chemical product transaction, the method comprising:

receiving at a server computer from a first one of a plurality of client computers a
request identifying a chemical product,
querying a database in response to the received request to retrieve chemical
product data comprising a starting point formulation and chemical
characteristics inherent to the starting point formulation,
sending the chemical product data to the first client computer,
modifying the starting point formulation based on the target characteristics input
by the user,
receiving a purchase order comprising a request to purchase the chemical product,
processing the purchase order, said purchase order comprising an order for
purchase by the user of a chemical product formulated in accordance with said
modified starting point formulation.

21. The method of claim 20 wherein the chemical product data further comprises data selected
from the group consisting of material safety data, chemical property data, processing data,
and product manufacturing data.

22. The method of claim 20 wherein the chemical product data further comprises testing result
data stored in the database in response to a sample testing request.